

**Misc. Judl. Case No. 22 of 2025**  
**CNR No. WBJP01-003317-2025**

**Order No. 08, Dated – 17.07.2026**

Today is fixed for hearing of this Misc Judicial case as filed under section 25 of the Guardian and Wards Act, 1890.

Both sides file hazira through their learned advocate.

Now the Misc Judicial case is taken up for consideration.

Same is heard and considered.

Written objection has been filed on behalf of the respondent against the said application under section 25 of the Guardian and Wards Act, 1890. However, the Ld. Advocate for the Respondent has intended to oppose the present Misc Judicial Case through verbal submission.

**It is the case of the petitioner** that one application, under Section 25 of the Guardians and Wards Act, 1890 read with Section 151 of the CPC for handing over the custody of the minor child namely Master Nilarjo Halder to the petitioner and his parents and also for visitation right, has been filed against the respondent-wife. It is also the case of the petitioner that marriage was solemnized between the petitioner and the respondent on 05.08.2019 as per the Hindu rites and customs and out of their wedlock, minor son namely Master Nilarjo Halder was born on 12.07.2021. However, due to matrimonial discord, the respondent left her matrimonial home along with her minor son on 21.10.2024 and since then, the respondent is staying at her departmental quarter at Jalpaiguri along with her minor son and she is very much reluctant to stay with her husband, the petitioner herein, and she has been deliberately ignoring the petitioner and also does not allow the petitioner to meet his son. Considering the present facts and circumstances of the case, the petitioner may be allowed to visit and meet his minor daughter in regular course and permit the petitioner to take away the minor child with him and to spend time with him as per direction of this Court and necessary order may be passed. However, at this stage, prayer for permanent custody has not been pressed on behalf of the petitioner in this Misc Judicial Case.

**It is the case of the Respondent :**

In opposing the case of the petitioner regarding custody/visitation of the child as filed on behalf of the petitioner under Section 25 of the Guardians and Wards Act, it has been contended on behalf of the respondent that all the allegations as made on behalf of the petitioner is false and fabricated and the respondent has been forced to leave her matrimonial home due to enormous physical and mental torture as inflicted upon her by the petitioner. It has been further contended on behalf of the respondent

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that considering the behaviour and attitude of the petitioner towards the respondent and her minor child, it will be very detrimental for the interest of the minor child. However, it has been contended on her behalf that as per the memorandum of understanding between the parties at the Office of the D.L.S.A, Jalpaiguri, necessary order may be passed.

Under the backdrop of these two conflicting view point issue of custody / visitation of the minor may be decided in following manner with the help of decisions with reasons.

**Decisions with reasons :**

Upon perusal of the application under Section 12 of the Guardians and Wards Act and after going through the record including the memorandum of understanding between the parties at the Office of the D.L.S.A, Jalpaiguri and considering the submission of the learned advocate for the petitioner and also the learned advocate appearing for the respondent, it appears to this Court that there was an application for custody/visitation in connection with the main application under Section 10 read with Section 25 of the Guardians and Wards Act, 1890 for declaration of guardianship and custody of the minor.

Under the present facts and circumstances of this case, it is the view of this Court that a father should not be deprived of getting access to his minor child when there is a strange relationship between the husband and wife and their child is staying with the mother away from the matrimonial home of the wife. It is also for the paramount welfare and well-beings as well as for the the mental and psychological support of the minor child to give access to his/her father who is staying away from him/her. However, in the present case, the father is getting access to his minor son who is at present staying with her mother at her paternal house as per their own mutual adjustment and understanding and also on the basis of interim order as passed in the light of the report of the Mediator.

In the facts and circumstances, this Court is not inclined to allow the prayer for handing over the custody of the minor male child, Master Nilarjo Halder considering all the relevant aspects as involved in the present case, however, this court does not find any justification for not allowing the prayer for visitation right to the father to get access to his minor son at least once in a week for a considerable period.

In view of that, this Court is inclined to allow the prayer for visitation only by allowing the visitation right to the petitioner-father to meet his son one day in a week,

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especially on 2<sup>nd</sup> and 4<sup>th</sup> Saturday as well as on the 1<sup>st</sup> and 3<sup>rd</sup> Sunday of the week for two hours from 04:00 p.m to 06:00 p.m and also on any other official holidays for the same duration at the place of residence of the respondent where she has been staying with her minor son. In this regard, respondent will also be at liberty to visit her matrimonial home on reciprocating date in the each and every week as per her convenience and also upon discussion with the petitioner.

Hence, it is

**ORDERED**

that, the application under Section 25 of the Guardians and Wards Act as filed on behalf of the petitioner-father is allowed partly upon contest by allowing the petitioner to get visitation of his minor son on the 2<sup>nd</sup> and 4<sup>th</sup> Saturday as well as on the 1<sup>st</sup> and 3<sup>rd</sup> Sunday of the week for two hours from 04:00 p.m to 06:00 p.m and also on any other official holidays for the same duration at the place of residence of the respondent where she has been staying with her minor son.

Respondent will also be at liberty to visit her matrimonial home on reciprocating date in the each and every week as per her convenience and also upon discussion with the petitioner.

Accordingly, this Misc Judicial Case filed on behalf of the petitioner under section 25 of the Guardians and Wards Act is disposed of.

No order as to the cost.

Dictated & corrected by me,

District Judge, Jalpaiguri  
(WB01135)

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